

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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RIO MAR ASSOCIATES, L.P., S.E., a  
Delaware Limited Partnership, d/b/a THE WESTIN  
RIO MAR BEACH RESORT,

Civ. Action No. 07 CV 8227 (GBD)

**AFFIDAVIT IN SUPPORT  
OF APPLICATION  
FOR CERTIFICATE  
OF DEFAULT**

Plaintiff,

-against-

MIXSHOW POWER SUMMIT, INC., a  
New York corporation; THE POWER SUMMIT,  
INC., a New York corporation; RPM MARKETING  
& PROMOTIONS, INC., a New York corporation;  
and RENE McLEAN, a New York resident,

Defendants.

\_\_\_\_\_  
X

STATE OF NEW YORK     )  
                                  ) ss:  
COUNTY OF NEW YORK    )

DAVID R. TEECE, being duly sworn, deposes and says:

1. I am an attorney with the Rudner Law Offices, counsel for Plaintiff Rio Mar Associates, L.P. S.E., d/b/a The Westin Rio Mar Resort, and I submit this affidavit in support of Plaintiff's Application for Certificate of Default to the Clerk pursuant to Fed. R. Civ. Pro. 55(a) and Local Rule 55.1.

2. On September 20, 2007, Plaintiff filed a Complaint against Defendants Mixshow Power Summit, Inc.; The Power Summit, Inc.; RPM Marketing & Promotions, Inc.; and Rene McLean.

4. The above-titled action was commenced against Defendant Rene McLean by

personal service of a Summons and Complaint served pursuant to Fed. R. Civ. Pro. 5(b)(A)(i) at 33 W. 19<sup>th</sup> Street, New York, New York on the 25<sup>th</sup> day of September, 2007. A true and correct copy of the Affidavit of Service is attached hereto as Exhibit A.

5. The above-titled action was commenced against Defendant Mixshow Power Summit, Inc. by personal service of a Summons and Complaint upon Rene McLean, managing agent, served pursuant to Fed. R. Civ. Pro. 5(b)(A)(i) at 33 W. 19<sup>th</sup> Street, New York, New York on the 25<sup>th</sup> day of September, 2007. A true and correct copy of the Affidavit of Service is attached hereto as Exhibit B.

6. The above-titled action was commenced against Defendant The Power Summit, Inc. by personal service of a Summons and Complaint upon Rene McLean, managing agent, served pursuant to Fed. R. Civ. Pro. 5(b)(A)(i) at 33 W. 19<sup>th</sup> Street, New York, New York on the 25<sup>th</sup> day of September, 2007. A true and correct copy of the Affidavit of Service is attached hereto as Exhibit C.

7. The above-titled action was commenced against Defendant RPM Marketing & Promotions, Inc. by personal service of a Summons and Complaint upon Rene McLean, managing agent, served pursuant to Fed. R. Civ. Pro. 5(b)(A)(i) at 33 W. 19<sup>th</sup> Street, New York, New York on the 25<sup>th</sup> day of September, 2007. A true and correct copy of the Affidavit of Service is attached hereto as Exhibit D.

5. Neither Defendant Rene McLean nor any other defendant is an infant, in the military, or an incompetent person.

6. Pursuant to Fed. R. Civ. Pro. 12(a)(A), the time for Defendants to answer or move with respect to the Complaint has expired, and no Defendants have answered or moved with

respect to the Complaint.

7. The Defendants' time to plead has not been extended and they are now in default in pleading.

8. The Complaint to which no response had been made was properly served upon all Defendants pursuant to Fed. R. Civ. Pro. 5(b)(2)(A).

FURTHER AFFIANT SAYETH NAUGHT

D.R.T.

David R. Teece

Sworn to before me this  
16 day of October, 2007.

Althea M. Dorsett

Notary Public

ALTHEA M DORSETT  
NOTARY PUBLIC-STATE OF NEW YORK  
NO. 01006037445  
QUALIFIED IN BRONX COUNTY  
MY COMMISSION EXPIRES APRIL 16, 2008

# **EXHIBIT A**

ABC PROCESS SERVICE, INC.  
Attorney:  
RUDNER LAW OFFICES  
Index No. 07CIV8227  
Date Filed 09/20/2007  
Office No. RL11133W

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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RIO MAR ASSOCIATES, L.P. S.E., A DELAWARE LIMITED  
(PLAINTIFF)  
PARTNERSHIP, D/B/A THE WESTIN RIO MAR BEACH RESORT  
against  
(DEFENDANT)  
MIXSHOW POWER SUMMIT, INC., A NEW YORK CORPORATION, ETAL;

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STATE OF NEW YORK, COUNTY OF NEW YORK SS:

SCHADRAC LAGUERRE being duly sworn deposes and says:  
I am over 18 years of age, not a party to this action and reside in the State of New York:

That on the 25 day of September 2007 at 3:34 PM , at  
33 W 19TH ST;NY, NY

I SERVED the SUMMONS IN A CIVIL ACTION, COMPLAINT AND RULE 7.1 STATEMENT upon

RENE MCLEAN, A NEW YORK RESIDENT  
the defendant herein named by delivering to and leaving a true copy of said  
SUMMONS IN A CIVIL ACTION, COMPLAINT AND RULE 7.1 STATEMENT with RENE MCLEAN,  
A NEW  
YORK RESIDENT said defendant personally. Deponent describes person served as  
aforesaid to the best of deponents ability at the time and circumstances of  
service as follows:

Sex MALE , Color WHITE, Hair BLACK, app.age 45 YRS, app.ht 5'9", app.wt  
160 LBS

That at the time of such service I knew the person so served as aforesaid to  
be the same person mentioned and described in the said SUMMONS IN A CIVIL  
ACTION, COMPLAINT AND RULE 7.1 STATEMENT as the defendant in this action. That at  
the time  
of service aforesaid, I asked person so served or person spoken to whether  
the defendant herein was in the military service of the State of N.Y. or the  
United States and received a negative reply. Upon information and belief  
based upon the conversation and observation as aforesaid I aver that the  
defendant is not in the military service of the State of N.Y. or the United  
States as that term is defined in the statutes of the State of N.Y. or the  
Federal Soldiers and Sailors Civil Relief Act.

SWORN to before me this 27  
day of September 2007

JAY BRODSKY  
Notary Public, State of New York  
No. 31-468371  
Qualified in New York County  
Commission Expires Feb. 2, 2011

SCHADRAC LAGUERRE

License No.: 1021952 :bb

JAY BRODSKY  
Notary Public, State of New York  
No. 31-4683271  
Qualified in New York County  
Commission Expires Feb. 2, 2011

# **EXHIBIT B**

ABC PROCESS SERVICE, INC.  
Attorney:  
RUDNER LAW OFFICES  
Index No. 07CIV8227  
Date Filed 09/20/2007  
Office No. RL11133WD

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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RIO MAR ASSOCIATES, L.P., S.E., A DELAWARE LIMITED  
(PLAINTIFF)  
PARTNERSHIP, D/B/A THE WESTIN RIO MAR BEACH RESORT  
against  
(DEFENDANT)  
MIXSHOW POWER SUMMIT, INC., A NEW YORK CORPORATION, ETAL;

---

STATE OF NEW YORK, COUNTY OF NEW YORK SS:

SCHADRAC LAGUERRE being duly sworn, deposes and says  
that he is over the age of 18 years, not a party to the action, and resides in  
the State of New York:

That on the 25 day of September 2007 at 3:34 PM, at

33 W 19TH ST; NY, NY

he served the annexed SUMMONS IN A CIVIL ACTION, COMPLAINT AND RULE 7.1  
STATEMENT upon

MIXSHOW POWER SUMMIT, INC., A NEW YORK CORPORATION, in this action, by  
delivering to and leaving with said MR. RENE MCLEAN, MANAGING AGENT a true copy  
thereof.

Deponent describes person served as aforesaid to the best of deponents ability  
at the time and circumstances of service as follows:

Sex MALE, Color WHITE, Hair BLACK, app.age 45 YRS, app.ht 5'9", app.wt 160  
LBS

DEPONENT FURTHER SAYS, that he knew the Corporation so served as aforesaid to be  
the Corporation mentioned and described in the said SUMMONS IN A CIVIL ACTION,  
COMPLAINT AND RULE 7.1. STATEMENT.

SWORN to before me this 27  
day of September 2007

JAY BRODSKY  
Notary Public, State of New York  
No. 31-4689271  
Qualified in New York County  
Commission Expires Feb 2, 2011

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SCHADRAC LAGUERRE  
License No.: 1021952 :bb

# **EXHIBIT C**

ABC PROCESS SERVICE, INC.  
Attorney:  
RUDNER LAW OFFICES  
Index No. 07CIV8227  
Date Filed 09/20/2007  
Office No. RL11133WC

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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RIO MAR ASSOCIATES, L.P., S.E, A DELAWARE LIMITED  
(PLAINTIFF)  
PARTNERSHIP, D/B/A THE WESTIN RIO MAR BEACH RESORT  
against  
(DEFENDANT)  
MIXSHOW POWER SUMMIT, INC., A NEW YORK CORPORATION, ETAL;

---

STATE OF NEW YORK, COUNTY OF NEW YORK SS:

SCHADRAC LAGUERRE being duly sworn, deposes and says  
that he is over the age of 18 years, not a party to the action, and resides in  
the State of New York:

That on the 25 day of September 2007 at 3:34 PM , at

33 W 19TH ST; NEW YORK, NY

he served the annexed SUMMONS IN A CIVIL ACTION, COMPLAINT AND RULE 7.1  
STATEMENT upon

THE POWER SUMMIT, INC. A NEW YORK CORPORATION in this action, by delivering to  
and leaving with said MR. RENE MCLEAN, MANAGING AGENT a true copy thereof.  
Deponent describes person served as aforesaid to the best of deponents ability  
at the time and circumstances of service as follows:

Sex MALE , Color WHITE, Hair BLACK, app.age 45 YRS, app.ht 5'9", app.wt 160  
LBS

DEPONENT FURTHER SAYS, that he knew the Corporation so served as aforesaid to be  
the Corporation mentioned and described in the said SUMMONS IN A CIVIL ACTION,  
COMPLAINT AND RULE 7.1. STATEMENT.

SWORN to before me this 27  
day of September 2007

JAY BRODSKY  
Notary Public, State of New York  
No. 31-4683271  
Qualified in New York County  
Commission Expires Feb/2, 2011

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SCHADRAC LAGUERRE  
License No. 1021952 :bb

# **EXHIBIT D**

ABC PROCESS SERVICE, INC.  
Attorney:  
RUDNER LAW OFFICES  
Index No. 07CIV8227  
Date Filed 09/20/2007  
Office No. RL11133WB

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

---

RIO MAR ASSOCIATES, L.P., S.E., A DELAWARE LIMITED  
(PLAINTIFF)  
PARTNERSHIP, D/B/A THE WESTIN RIO MAR BEACH RESORT  
against  
(DEFENDANT)  
MIXSHOW POWER SUMMIT, INC., A NEW YORK CORPORATION, ETAL;

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STATE OF NEW YORK, COUNTY OF NEW YORK SS:

SCHADRAC LAGUERRE being duly sworn, deposes and says  
that he is over the age of 18 years, not a party to the action, and resides in  
the State of New York:

That on the 25 day of September 2007 at 3:34 PM , at

33 W 19TH ;NY, NY

he served the annexed SUMMONS IN A CIVIL ACTION, COMPLAINT AND RULE 7.1  
STATEMENT upon

RPM MARKETING & PROMOTION, INC., in this action, by delivering to and leaving  
with said MR. RENE MCLEAN, MANAGING AGENT a true copy thereof.  
Deponent describes person served as aforesaid to the best of deponents ability  
at the time and circumstances of service as follows:

Sex MALE , Color WHITE, Hair BLACK, app.age 45 YRS, app.ht 5'9", app.wt 160  
LBS

DEPONENT FURTHER SAYS, that he knew the Corporation so served as aforesaid to be  
the Corporation mentioned and described in the said SUMMONS IN A CIVIL ACTION,  
COMPLAINT AND RULE 7.1. STATEMENT.

SWORN to before me this 27  
day of September 2007

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SCHADRAC LAGUERRE  
License No. 1021952 :bb

JAY BRODSKY  
Notary Public, State of New York  
No. 31-463271  
Qualified in New York County  
Commission Expires Feb. 2, 2011